

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

HILLSBORO FEED COMPANY, a
Washington Corporation; and SUSAN
HILLIARD, an individual residing in
Washington,

Plaintiffs,

vs.

2:13-cv-00405-PJK-LAM

CHRIS BIRO, an unmarried individual
residing in New Mexico,

Defendant.

AMENDED¹ TEMPORARY RESTRAINING ORDER

THIS MATTER came before the Court on Plaintiffs Hillsboro Feed Company's ("HFC") and Susan Hilliard's Motion for Temporary Restraining Order and Application for Preliminary Injunction ("Motion") filed May 17, 2013. Doc. 8. Plaintiffs have requested, among other relief, entry of an order pursuant to Fed. R. Civ. P. 65(b). The Court held an ex parte hearing on May 21, 2013, and considered all pleadings including the Unsworn Declaration of Susan Hilliard filed May 17, 2013 (Doc. 9-1) as well as her testimony.

¹ The court grants Plaintiffs' Motion to Amend Temporary Restraining Order filed May 24, 2013 (Doc. 12), to correct the listing of the Plaintiffs' property alleged to be in the possession of Defendant.

THE COURT HEREBY FINDS that immediate and irreparable injury, loss, and damage will result to Plaintiffs if a Temporary Restraining Order is not issued without notice. See Fed. R. Civ. P. 65(b)(1)(A) & (B); Doc. 8 at 1-2; Doc. 9-1 at 7-8.

THE COURT FURTHER FINDS that there is no adequate remedy at law relative to the relief sought.

THE COURT FINDS THAT:

1. If this restraining order is not entered, there is a likelihood that Defendant will attempt to move, transfer, or otherwise dispose of Plaintiffs' assets before Plaintiffs' claim for declaratory relief and replevin has been decided by the Court, and, as such, the Court finds that entry of this Order without notice to Defendant is appropriate;
2. There is a substantial likelihood that Plaintiffs will succeed on the merits of this action;
3. Public policy favors granting the requested equitable relief; and
4. The threatened injury to Plaintiffs outweighs any damage that may accrue to Defendant.

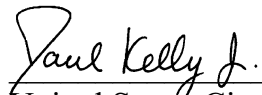
ACCORDINGLY, THE COURT HEREBY ORDERS THAT Defendant is hereby precluded from moving, transferring, selling, destroying, harming, or otherwise disposing of or encumbering the assets of Plaintiffs identified in Exhibit A of Plaintiffs' Motion to Amend Temporary Restraining Order (Doc. 12-1) and attached to this Amended Order until further order of the Court. Absent any other action, this Order expires 14 days after initial entry (May 21, 2013) unless extended on motion or by consent. See Fed. R. Civ. P.

65(b)(2).

There shall be a hearing on Plaintiff's request for a Preliminary Injunction on Tuesday, June 25, 2013 at 10:00 a.m. at the United States Courthouse, 106 South Federal Place, Santa Fe, New Mexico. At that time and after notice to the Defendant, the Court will consider whether to extend the relief granted above.

For good cause shown, the Court waives the requirement of security for the purposes of this Temporary Restraining Order.

DATED this 21st day of May 2013, at Santa Fe, New Mexico.



United States Circuit Judge
Sitting by Designation

Entered May 21, 2013 at 4:00 p.m.
(Amended May 24, 2013)